

**CITY COUNCIL OF THE CITY OF SAN DIEGO
THE CLOSED SESSION MEETING REPORT
FOR MONDAY AND TUESDAY, FEBRUARY 23 AND 24, 2009
CITY ADMINISTRATION BUILDING
COMMITTEE ROOM – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

REPORTING THE RESULT OF THE CLOSED SESSION MEETING

Only items that can be disclosed are reported out in the Open Session of the regular City Council Meeting. Public comment on Closed Session items are taken in Open Session. Please refer to the City Clerk’s minutes for Open Session for more information. Assistant City Attorney Andrew Jones reports the results of the Closed Session Meeting of February 23 and 24, 2009, as follows:

CLOSED SESSION MEETING FOR MONDAY, FEBRUARY 23, 2009

ROLL CALL:

Present: Mayor Sanders, Council President Hueso, Council President Pro Tem Faulconer, and Councilmembers Lightner, Gloria, Young, Frye, and Emerald

Absent: Councilmember DeMaio - Dist. 5 (Absent for Items CS-2, 3, 5, 6, and 7)

CLOSED SESSION MEETING FOR TUESDAY, February 24, 2009, at 9:00 a.m.

ROLL CALL:

Present: Mayor Sanders, Council President Hueso, Council President Pro Tem Faulconer, and Councilmembers Lightner, Gloria, Young, DeMaio, Frye, Emerald

Absent: All Present

CLOSED SESSION MEETING FOR TUESDAY, February 24, 2009, at 11:30 a.m.

ROLL CALL:

Present: Mayor Sanders, Council President Hueso, Council President Pro Tem Faulconer, and Councilmembers Lightner, Gloria, Young, DeMaio, Frye, Emerald

Absent: All Present

CLOSED SESSION ITEMS FOR MONDAY, FEBRUARY 23, 2009:

Conference with Labor Negotiator, pursuant to Government Code section 54957.6:

CS-1 Agency negotiators: William Kay, Timothy Davis, Scott Chadwick,
Judy von Kalinowski, Thom Harpole, Kim Nguyen,
Woo-Jin Shim, Lourdes Silva, Valerie VanDeweghe,
Javier Mainar, Brian Fennessy, David Ramirez,
Robert Kanaski, Paul Cooper, Jan Goldsmith.
Tanya Tomlinson, Joan Dawson, William Gersten,
Lori Thacker

Employee organizations: Local 145 International Association of Firefighters AFL-CIO, San
Diego Police Officers Association, Municipal Employees
Association, AFSCME Local 127 AFL-CIO and Deputy City
Attorney Association

DCA Assigned: J. Dawson

Report: Nothing to report (Note: This Item was heard again on Tuesday, February 24, 2009,
at 9:00 a.m.- 10:00 a.m. and at 11:30 a.m.)

Conference with Legal Counsel - anticipated litigation - significant exposure to litigation, pursuant to California Government Code section 54956.9(b):

CS-2 San Diego Bay Shipyard Sediment Removal, Regional Water Quality Control Board
Cleanup & Abatement Order No. R9-2005-0126

DCA Assigned: F. Ortlieb

Report: Nothing to report

Conference with Legal Counsel - existing litigation, pursuant to California Government Code Section 54956.9(a):

CS-3 *Grace Church of North County v. City of San Diego, et al.*
United States District Court Case No. 07-CV-419H (RBB)

DCA Assigned: C. Leone

Report: Nothing to report

CS-4 *Michael T. Uberuaga v. City of San Diego*
United States District Court Case No. 08cv1960 MMA (BLM)

DCA Assigned: D. Karlin

Report: Nothing to report

CS-5 *SDCERS v. City Attorney Michael Aguirre*
San Diego Superior Court Case No. GIC 841845.

DCA Assigned: W. Chung

Report: Nothing to report

CS-6 *City of San Diego v. SDCERS*
San Diego Superior Court Case No. 37-2007-00081912-CU-WM-CTL.

DCA Assigned: W. Chung

Report: Nothing to report

CS-7 *City of San Diego v. SDCERS*
San Diego Superior Court Case No. 37-2007-00077604-CU-MC-CTL.

DCA Assigned: W. Chung

Report: Nothing to report

CLOSED SESSION ITEMS FOR TUESDAY, FEBRUARY 24, 2009, at 9:00 a.m. - 10:00 a.m.:

Conference with Labor Negotiator, pursuant to Government Code section 54957.6:

CS-1 Agency negotiators: William Kay, Timothy Davis, Scott Chadwick,
Judy von Kalinowski, Thom Harpole, Kim Nguyen,
Woo-Jin Shim, Lourdes Silva, Valerie VanDeweghe,
Javier Mainar, Brian Fennessy, David Ramirez,
Robert Kanaski, Paul Cooper, Jan Goldsmith.
Tanya Tomlinson, Joan Dawson, William Gersten,
Lori Thacker

Employee organizations: Local 145 International Association of Firefighters AFL-CIO, San
Diego Police Officers Association, Municipal Employees
Association, AFSCME Local 127 AFL-CIO and Deputy City
Attorney Association

DCA Assigned: J. Dawson

Report: Nothing to report (Note: This Item was heard on Monday, February 23, 2009, and
again on Tuesday, February 24, 2009, at 9:00 a.m. - 10:00 a.m. and
at 11:30 a.m.)

CS-8 *Insurance Company of the State of Pennsylvania, et al. v. City of San Diego*
United States District Court, Southern District of California Case No. 02-CV-0693 (BEN) (RBB)

DCA Assigned: D. Karlin

Motion: Defend litigation and authorize \$50,000 to allow Latham & Watkins to continue to represent the City of San Diego on the appeal.
Moved: Councilmember Frye - Dist. 6
Seconded: Councilmember Emerald - Dist. 7
Vote: 8 to 0 [Passed - unanimously]
Report: This item was reported out by Assistant City Attorney Andrew Jones on February 24, 2009, @ 3:13 p.m.

In Closed Session, today, the City Council unanimously authorized \$50,000 in the case entitled *Insurance Company of the State of Pennsylvania v. City of San Diego* to allow Latham & Watkins to continue to represent the City of San Diego on the appeal.

CS-9 *San Diego Police Officers' Association v. Michael Aguirre, et al. (POA I).*
United States District Court for the Southern District of California Case No. 05-CV-1581
Erica Aaron v. Aguirre, et al. (POA III)
United States District Court for the Southern District of California Case No. 06-CV-1451
San Diego Police Officers' Association v. Aguirre, et al. (POA VI)
San Diego Superior Court Case No. 37-2007-00075432-CU-MC-CTL
Erica Aaron v. City of San Diego
San Diego Superior Court Case No. 37-2008-00093078-CU-OE-CTL
Mark S. Annis v. City of San Diego (POA VIII)
San Diego Superior Court Case No. 37-2008-00092949-CU-BC-CTL
Marcus Abbe v. City of San Diego (POA II)
United States District Court for the Southern District of California Case No. 05-CV-1629 and
United States District Court for the Southern District of California Case No. 06-CV-0538

DCA Assigned: G. Schaefer

Motion: Authorize \$175,000 for continued handling by Latham & Watkins.
of the Abbe case and to allow the City Attorney's Office to become co-council in this case.
Moved: Council President Pro Tem Faulconer - Dist. 2
Seconded: Councilmember Emerald - Dist. 7
Vote: 8 to 0 [Passed - unanimously]
Report: This item was reported out by Assistant City Attorney Andrew Jones on February 24, 2009, @ 3:13 p.m.

In Closed Session, today, the City Council unanimously gave the City Attorney's Office the authority to become co-council in *Abbe v. City of San Diego* and unanimously authorized an additional \$175,000 for Latham & Watkins to continue to handle the case.

CS-10 *Border Business Park v. City of San Diego*
San Diego Superior Court Case No. 692794

DCA Assigned: David Karlin

Motion: Authorize \$625,000 to continue to retain Latham & Watkins as council in this case.
Moved: Councilmember Frye - Dist. 6
Seconded: Councilmember Emerald - Dist. 7
Vote: 8 to 0 [Passed - unanimously]
Report: This item was reported out by Assistant City Attorney Andrew Jones on February 24, 2009, @ 3:13 p.m.

In Closed Session, today, the City Council unanimously authorized \$625,000 to have Latham & Watkins continue to represent the City of San Diego in *Border Business Park v. City of San Diego*, Case No. GIC 692794.

CS-11 *De Anza Cove Homeowners Association, Inc. v. City of San Diego, et al.*
San Diego Superior Court Case No. GIC 821191

DCA Assigned: R. Walters

Motion: Authorize \$625,000 to continue to retain Latham & Watkins as council in this case.
Moved: Council President Pro Tem Faulconer - Dist. 2
Seconded: Councilmember Frye - Dist. 6
Vote: 8 to 0 [Passed - unanimously]
Report: This item was reported out by Assistant City Attorney Andrew Jones on February 24, 2009, @ 3:13 p.m.

In Closed Session, today, the City Council unanimously approved the retention of Latham & Watkins to handle the coverage issue regarding excess carrier CSAC in *De Anza Cove Homeowners' Assoc., Inc. v. City of San Diego*, and unanimously authorized up to \$101,000 to handle that matter.

CS-12 *City of San Diego v. Sunroad Enterprises et al.*
San Diego Superior Court Case No. GIC 877054

DCA Assigned: C. Brock

Motion: Authorize 998 walk away; pay Latham & Watkins their existing legal fees amounting to \$258,000 to close out their account; and City Attorney's Office to take back the case from Latham & Watkins.
Moved: Councilmember Lightner - Dist. 1
Seconded: Councilmember Emerald - Dist. 7
Vote: 8 to 0 [Passed - unanimously]

Report: This item was reported out by Assistant City Attorney Andrew Jones on February 24, 2009, @ 3:13 p.m.

In Closed Session, today, the City Council unanimously authorized the City Attorney's Office to assume the defense of *City of San Diego v. Sunroad Enterprises*, Case No. GIC 877054, and pay Latham & Watkins their existing legal fees amounting to \$258,000 to close out their account. It is estimated that continued representation by Latham & Watkins would have cost the City of San Diego an additional \$1.6 million.

CS-13 *Christopher Stavros v. City of San Diego*
Claim No. LP05-0534-2204

DCA Assigned: D. Shanahan

Report: Nothing to report

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Employee organizations: Local 145 International Association of Firefighters AFL-CIO, San Diego Police Officers Association, Municipal Employees Association, AFSCME Local 127 AFL-CIO and Deputy City Attorney Association

DCA Assigned: J. Dawson

Report: Nothing to report (Note: This Item was heard on Monday, February 23, 2009, and again on Tuesday, February 24, 2009, at 9:00 a.m.- 10:00 a.m. and at 11:30 a.m.)

REPORTED BY: _____

Andrew Jones
Assistant City Attorney